

# **EXHIBIT A**



**Service of Process  
Transmittal**

12/31/2020

CT Log Number 538825618

**TO:** Debra David, Paralegal  
The TJX Companies, Inc.  
770 Cochituate Rd  
Framingham, MA 01701-4666

**RE: Process Served in California**

**FOR:** Marshalls of MA, Inc. (Domestic State: MA)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** ROBERT LACOUR, etc., Pltf. vs. MARSHALLS OF CA, LLC., etc., et al., Dfts. // To:  
Marshalls of MA Inc  
*Name discrepancy noted.*

**DOCUMENT(S) SERVED:** -

**COURT/AGENCY:** None Specified  
Case # RG20083534

**NATURE OF ACTION:** Code Violation / Code Enforcement

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Los Angeles, CA

**DATE AND HOUR OF SERVICE:** By Process Server on 12/31/2020 at 13:43

**JURISDICTION SERVED :** California

**APPEARANCE OR ANSWER DUE:** None Specified

**ATTORNEY(S) / SENDER(S):** None Specified

**ACTION ITEMS:** CT has retained the current log, Retain Date: 12/31/2020, Expected Purge Date:  
01/05/2021

Image SOP

Email Notification, Debra David debra\_david@tjx.com

Email Notification, James Evans james\_evans@tjx.com

**REGISTERED AGENT ADDRESS:** C T Corporation System  
818 West 7th Street  
Los Angeles, CA 90017  
800-448-5350  
MajorAccountTeam1@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

## PROCESS SERVER DELIVERY DETAILS

**Date:** Thu, Dec 31, 2020

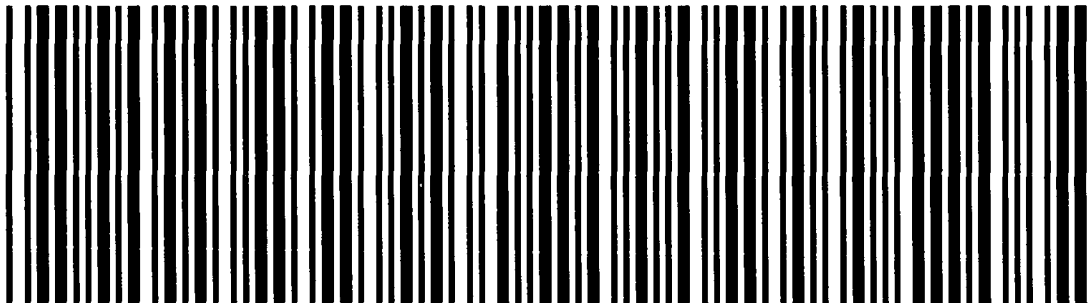
**Server Name:** George Todd

**Entity Served** MARSHALLS OF MA, INC.

**Agent Name** C T CORPORATION SYSTEM

**Case Number** RG20083534

**Jurisdiction** CA



To: 15102671547

Page: 23 of 24

2020-12-22 18:19:16 GMT

From: Shaun Setareh

SUM-100

**SUMMONS  
(CITACION JUDICIAL)****NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

Additional Parties Attachment form is attached.

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

ROBERT LACOUR, an individual,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)**FILED BY FAX**  
ALAMEDA COUNTY

December 22, 2020

CLERK OF  
THE SUPERIOR COURT  
By Keisha Ghee, Deputy**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

**Tiene 30 DÍAS DE CALENDARIO** después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Rene C. Davidson Courthouse  
1225 Fallon Street, Oakland, CA 94612CASE NUMBER:  
(Número del Caso):

RG20083534

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Shaun Setareh, 9665 Wilshire, Blvd., Ste 430, Beverly Hills, CA 90212 (310)888-7771

DATE:

(Fecha) December 22, 2020

Clerk, by

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

- 3.
- ☒
- on behalf of (specify):
- Marshalls of MA Inc*

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

- 4.
- ☐
- by personal delivery on (date):



**SUM-200(A)**

SHORT TITLE: ROBERT LACOUR v. MARSHALLS OF CA, LLC, et al.,	CASE NUMBER:
--	--------------

**INSTRUCTIONS FOR USE**

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

**List additional parties** (*Check only one box. Use a separate page for each type of party.*):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

MARSHALLS OF CA, LLC, a Virginia limited liability corporation; MARSHALLS OF MA, INC., a Massachusetts corporation; THE TJX COMPANIES, INC., a Delaware corporation; and DOES 1 through 50, inclusive,

Page 1 of 1

Page 1 of 1

To: 15102671547

Page: 03 of 24

2020-12-22 16:19:16 GMT

From: Shaun Setareh

**FILED BY FAX**  
ALAMEDA COUNTY

December 22, 2020

CLERK OF  
THE SUPERIOR COURT  
By Keisha Ghee, Deputy

CASE NUMBER:  
**RG20083534**

1 Shaun Setareh (SBN 204514)  
2 shaun@setarehlaw.com  
3 Thomas Segal (SBN 222791)  
4 thomas@setarehlaw.com  
5 Farrah Grant (SBN 293898)  
6 farrah@setarehlaw.com  
7 SETAREH LAW GROUP  
8 9665 Wilshire Blvd., Suite 430  
9 Beverly Hills, California 90212  
10 Telephone (310) 888-7771  
11 Facsimile (310) 888-0109

12  
13 Attorneys for Plaintiff  
14 ROBERT LACOUR

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ALAMEDA  
UNLIMITED JURISDICTION

13 ROBERT LACOUR, an individual,

14 *Plaintiff,*

15 vs.

16 MARSHALLS OF CA, LLC, a Virginia  
17 limited liability corporation; MARSHALLS  
18 OF MA, INC., a Massachusetts corporation;  
19 THE TJX COMPANIES, INC., a Delaware  
20 corporation; and DOES 1 through 50,  
21 inclusive,

22 *Defendants.*

Case No.

**COMPLAINT**

1. Intentional Infliction of Emotional Distress;
2. Retaliation (Cal. Gov. Code §12940(h));
3. Discrimination (Cal. Gov. Code §12940(a);
4. Wrongful Termination in Violation of Public Policy;
5. Unfair Business Practices (Cal. Bus. & Prof. Code § 17200);

**JURY TRIAL DEMANDED**

COMPLAINT

COMES NOW, Plaintiff ROBERT LACOUR ("Plaintiff") complains and alleges as follows:

**PARTIES**

1. Plaintiff ROBERT LACOUR is, and at all relevant times mentioned herein, an individual residing in the State of California.

2. Plaintiff is informed and believes, and thereupon alleges that Defendant MARSHALLS OF CA, LLC is, and at all relevant times mentioned herein was, a Virginia limited liability company doing business in the State of California.

3. Plaintiff is informed and believes, and thereupon alleges that Defendant MARSHALLS OF MA, INC. is, and at all relevant times mentioned herein was, a Massachusetts corporation doing business in the State of California.

4. Plaintiff is informed and believes, and thereupon alleges that Defendant TJX COMPANIES, INC. is, and at all relevant times mentioned herein was, a Delaware corporation doing business in the State of California.

5. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, but is informed and believes that these defendants are legally responsible for the conduct alleged in this and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of the DOE defendants when ascertained.

6. Plaintiff is informed and believes that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent in this complaint, and the acts of each defendant are legally attributable to each of the other defendants.

**JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction to hear this case because the monetary damages and restitution sought by Plaintiff from Defendants conduct exceeds the minimal jurisdiction of the Superior Court of the State of California.

8. Venue is proper in the County of Alameda because Defendant THE TJX COMPANIES, INC. is incorporated under the laws of Delaware, does business in Alameda County,

1 and has surrendered its registration of a California place of business with the California Secretary of  
2 State. As such, venue is proper in any county in California.

### 3 EXHAUSTION OF ADMINISTRATIVE REMEDIES

4 9. Prior to the initiation of this lawsuit, Plaintiff filed a complaint against each named  
5 defendant with the California Department of Fair Employment and Housing (DFEH) pursuant to  
6 California Government Code section 12900, et seq., alleging the claims described in this complaint.  
7 On November 30, 2020, the DFEH issued a "right to sue" letter. A true and correct copy of the  
8 administrative complaint and the "right to sue" letter is attached as Exhibit A. All conditions  
9 precedent to the institution of this lawsuit have been fulfilled. This action is filed within one year of  
10 the date that the DFEH issued its right to sue letter.

### 11 FACTUAL ALLEGATIONS

12 10. Plaintiff was hired by Defendants to work in their store in Clovis, California in or  
13 around July 2009. Plaintiff worked for Defendants without issue.

14 11. Plaintiff was promoted to the position of "shoe coordinator" in or around 2014.

15 12. Soon after he was promoted to "shoe coordinator," he was promised a \$1.00 wage  
16 increase, to which he notified management, and to which he earned the wage increase for a couple  
17 of years.

18 13. Upon information and belief, at some point in 2016 Plaintiff was called in to speak  
19 with management, who informed him that the store was going to be eliminating his position as  
20 "shoe coordinator," but that he would keep his wage increase.

21 14. Upon information and belief, about one week later Plaintiff was informed by another  
22 member of management that he could keep his \$1.00 wage increase if he worked in the women's  
23 department, which men were prohibited from doing, or continue to work in the men's department  
24 and continue his role but not receive the \$1.00 wage increase he was promised.

25 15. Plaintiff spoke directly with a district manager about this discrepancy while she was  
26 visiting the store under an "open door policy," and Plaintiff was allowed to keep the wage increase.

27 16. Soon after Plaintiff reported the wage discrepancy, his environment at work became  
28 increasingly hostile.



1           17.     The assistant store manager would reprimand Plaintiff for “asking too many  
2 questions” when he was simply attempting to do his job well.

3           18.     On one occasion, Plaintiff reported to management over his walkie-talkie that he was  
4 about to go on his lunch. However, management insisted that he perform work-related obligations,  
5 which resulted in him not taking his lunch before the fifth hour as required by law.

6           19.     When he came back from lunch, there was a write-up for not clocking out for his  
7 meal period, and his office manager was upset that he did not take his lunch despite being told to  
8 finish a task.

9           20.     The office manager followed him to yell at him for refusing to sign the write-up.

10          21.     The next day, Plaintiff was called in by the store manager, who again asked him to  
11 sign the write-up. Plaintiff refused and was told that the write-up is not being dismissed.

12          22.     In addition, “loss prevention” was told to follow him everywhere in the store,  
13 including the restroom, which made Plaintiff feel like a criminal.

14          23.     The head of loss prevention would make inappropriate comments, asking Plaintiff if  
15 he was going to “grow out his cornrows” and other demeaning racial comments.

16          24.     In or around late 2018, Plaintiff requested a leave of absence for “personal reasons.”

17          25.     Plaintiff took a six-month leave of absence as a result of the stress and anxiety he  
18 experienced at work.

19          26.     After his six-month leave, HR informed Plaintiff that he would be returning to work  
20 on a particular date.

21          27.     When the time came for Plaintiff to return to work, he was told he needed to actually  
22 call two weeks in advance of his return date to be put on the schedule.

23          28.     Plaintiff told HR he was informed to go back on that date, but instead of bringing  
24 him back full-time as agreed, he was brought back to be an “on call” employee.

25          29.     HR told Plaintiff they would “pencil him in” to come back to work, even though he  
26 was coming back on the day he was previously told to come back.

27          30.     Upon his return, Plaintiff did not receive any help in his department. Stock was  
28 piling up, and when Plaintiff would ask for help, they refused to provide him any employees to help

1 him.

2 31. Plaintiff had to take two buses to get to work, and would inform his managers when  
3 he was going to be late due to the bus schedule.

4 32. His managers would constantly tell him if he was running late due to the bus  
5 schedule that it was not a problem, but they were still giving him numerous write-ups.

6 33. Plaintiff started receiving write-ups for issues such as attendance, and was constantly  
7 being written up for arbitrary and unfounded reasons.

8 34. Plaintiff was terminated in or around May 2019, and was told it was for having "too  
9 many write-ups."

10 **FIRST CAUSE OF ACTION**

11 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

12 **(Against All Defendants)**

13 35. Plaintiff incorporates the preceding paragraphs of this Complaint as if fully alleged  
14 herein.

15 36. The conduct of Defendants' management employees as set forth above was so  
16 extreme and outrageous that it exceeded the boundaries of human decency and was beyond the  
17 conduct tolerated in a civilized society. This conduct was intended to cause severe emotional  
18 distress or was done in reckless disregard of the probability of causing severe emotional distress.

19 37. As an actual and proximate result of Defendants' wrongful conduct, Plaintiff has  
20 suffered and continues to suffer severe and continuous humiliation, emotional distress and physical  
21 and mental pain and anguish, all to his damage in an amount according to proof at trial.

22 34. The Defendants committed the acts alleged herein maliciously, fraudulently and  
23 oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil  
24 motive amounting to malice and in conscious disregard of Plaintiff's rights. Because the acts taken  
25 toward Plaintiff were carried out by Defendants acting in a deliberate, cold, callous and intentional  
26 manner in order to injure and damage Plaintiff, he is entitled to recover punitive damages from  
27 Defendants in an amount according to proof.

28 ///

**SECOND CAUSE OF ACTION**

**RETALIATION**

**(Cal. Gov't Code § 12940(h))**

**(Against All Defendants)**

35. Plaintiff incorporates the preceding paragraphs of this Complaint as if fully alleged herein.

36. At all times mentioned herein, the California Fair Employment and Housing Act (FEHA) (Cal. Gov't Code § 12900, *et seq.*) was in full force and effect and fully binding upon Defendants. Specifically, section 12940(h) makes it an unlawful employment practice for an employer to discriminate against any person because the person has opposed any practices forbidden under this part.

37. Plaintiff opposed the wage violation and reported it to management. In response to his complaints, Defendants terminated the employment of Plaintiff.

38. As a direct, foreseeable and proximate result of Defendants' unlawful actions, Plaintiff has suffered substantial emotional distress, humiliation, shame and embarrassment, all to the Plaintiff's damage and in an amount to be proven at trial.

39. Defendants committed the acts herein despicably, maliciously, fraudulently and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others. Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to proof.

**THIRD CAUSE OF ACTION**

**DISCRIMINATION**

**(Cal. Gov't Code § 12940(a))**

**(Against All Defendants)**

40. Plaintiff incorporates the preceding paragraphs of this Complaint as if fully alleged herein.

41. At all times mentioned herein, the California Fair Employment and Housing Act

(FEHA) (Cal. Gov't Code § 12900, *et seq.*) was in full force and effect and fully binding upon Defendants. Specifically, section 12940(a) makes it an unlawful employment practice for an employer to discriminate against any person on the basis of their actual or perceived race.

42. Plaintiff is of Mexican descent, and as stated above loss prevention officers would make discriminatory racially charged comments to Plaintiff.

43. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff has suffered substantial emotional distress, humiliation, shame and embarrassment, all to the Plaintiff's damage and in an amount to be proven at trial.

44. Defendants committed the acts herein despicably, maliciously, fraudulently and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others. Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to proof.

#### **FOURTH CAUSE OF ACTION**

#### **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

#### **(Against All Defendants)**

45. Plaintiff incorporates the preceding paragraphs of this Complaint as if fully alleged herein.

46. Defendants terminated Plaintiff's employment in violation of important and well-established public policies, as set forth in various state statutes and Constitutional provisions including but not limited to FEHA and Article I, section 8 of the California Constitution.

47. As a proximate result of the conduct of Defendants, Plaintiff suffered and will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits and other pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical and emotional injuries, including nervousness, humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue and anxiety. The amount of Plaintiff's damages will be ascertained at trial.

48. In committing the foregoing acts, Defendants have been guilty of oppression, fraud

1 and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to punitive  
2 damages in a sum appropriate to punish and make an example out of Defendants.

3 49. The acts of oppression, fraud and/or malice were engaged in by employees of  
4 Defendants. Defendants had advance knowledge of the unfitness of each employee who acted with  
5 oppression, fraud and/or malice, and/or authorized or ratified the wrongful conduct for which an  
6 award of punitive damages is sought, and/or was personally guilty of oppressions, fraud and/or  
7 malice. The advance knowledge and conscious disregard, authorization, ratification or act of  
8 oppression, fraud and/or malice was committed by or on part of an officer, director or managing  
9 agent of Defendants, thereby entitling Plaintiff to punitive and exemplary damages against  
10 Defendants in accordance with California Civil Code section 3294 in a sum appropriate to punish  
11 and make an example of Defendants.

12 50. Plaintiff has been generally damaged in an amount within the jurisdictional limits of  
13 this Court.

14 **FIFTH CAUSE OF ACTION**

15 **UNFAIR BUSINESS PRACTICES**

16 **(Cal. Bus. & Prof. Code § 17200-17208)**

17 **(Against All Defendants)**

18 51. Plaintiff incorporates the preceding paragraphs of the Complaint as if fully alleged  
19 herein.

20 52. The foregoing conduct as alleged in this complaint violates the California Unfair  
21 Competition Law ("UCL") (Cal. Bus. & Prof. Code § 17200 *et seq.*). Section 17200 prohibits  
22 unfair competition by prohibiting, *inter alia*, any unlawful or unfair business acts or practices.

23 53. Throughout the course of Plaintiff's employment, Defendants committed acts of  
24 unfair competition, as defined by the UCL, by among other things, engaging in the acts and  
25 practices described in this complaint, including but not limited to, retaliating against him for  
26 complaining about wage violations. Defendants' conduct as alleged herein has damaged Plaintiff  
27 by wrongfully denying him earned wages and equity, and therefore was substantially injurious to  
28 the Plaintiff.

**8 PRAYER FOR RELIEF**

(1) For compensatory damages, including but not limited to, lost back pay, plus interest, lost fringe benefits and future lost earnings and fringe benefits, lost equity, damages for emotional distress and pain and suffering, according to proof;

(3) For punitive damages, as allowed by law, that will sufficiently punish, make an example of, and deter future conduct by Defendants;

8 (5) For an award of costs of suit and reasonable attorneys' fees;

0 (7) For such other and further relief as the Court deems just and proper.

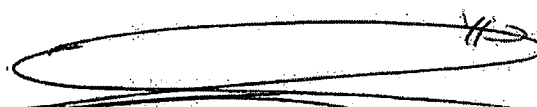
8 |||

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: December 21, 2020

SETAREH LAW GROUP



SHAUN SETAREH  
THOMAS SEGAL  
FARRAH GRANT  
Attorneys for Plaintiff  
ROBERT LACOUR

# **EXHIBIT “A”**





STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

November 30, 2020

Shaun Setareh  
9665 Wilshire Boulevard, Suite 430  
Beverly Hills, California 90212

RE: **Notice to Complainant's Attorney**  
DFEH Matter Number: 202011-11936730  
Right to Sue: LaCour / Marshalls of CA, LLC et al.

Dear Shaun Setareh:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

**Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.** You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

November 30, 2020

RE: **Notice of Filing of Discrimination Complaint**  
DFEH Matter Number: 202011-11936730  
Right to Sue: LaCour / Marshalls of CA, LLC et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

November 30, 2020

Robert LaCour  
Contact through representative

RE: **Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 202011-11936730  
Right to Sue: LaCour / Marshalls of CA, LLC et al.

Dear Robert LaCour:

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective November 30, 2020 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION  
BEFORE THE STATE OF CALIFORNIA  
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING  
Under the California Fair Employment and Housing Act  
(Gov. Code, § 12900 et seq.)**

**In the Matter of the Complaint of**

Robert LaCour

DFEH No. 202011-11936730

Complainant,

vs.

Marshalls of CA, LLC  
818 West Seventh Street, Suite 930  
Los Angeles, California 90017

Marshalls of MA, Inc.  
818 West Seventh Street, Suite 930  
Los Angeles, California 90017

TJX Companies, Inc.  
818 West Seventh Street, Suite 930  
Los Angeles, California 90017

Respondents

1. Respondent **Marshalls of CA, LLC** is an employer **Marshalls of CA, LLC** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Marshalls of MA, Inc.** as individual Co-Respondent(s).

Complainant is naming **TJX Companies, Inc.** as individual Co-Respondent(s).

3. Complainant **Robert LaCour**, resides in the City of , State of .

4. Complainant alleges that on or about **May 31, 2019**, respondent took the following adverse actions:

**Complainant was discriminated against** because of complainant's race and as a result of the discrimination was terminated, denied any employment benefit or privilege.

**Complainant experienced retaliation** because complainant reported or resisted any form of discrimination or harassment and as a result was terminated, denied any employment benefit or privilege.

**Additional Complaint Details:** Complainant was retaliated against and ultimately terminated by management for reporting a wage discrepancy, and was discriminated against in his treatment by his employers on the basis of his race.

1 VERIFICATION

2 I, **Nolan Dilts**, am the **Attorney** in the above-entitled complaint. I have read the  
3 foregoing complaint and know the contents thereof. The matters alleged are based  
4 on information and belief, which I believe to be true.

5 On November 30, 2020, I declare under penalty of perjury under the laws of the State  
6 of California that the foregoing is true and correct.

7 **Beverly Hills, CA**  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

To: 15102671547

Page: 20 of 24

2020-12-22 16:19:16 GMT

From: Shaun Setareh

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun Setareh (SBN 204514); Thomas Segal (SBN 222791) Setareh Law Group 9685 Wilshire Blvd., Suite 430, Beverly Hills, CA 90212  TELEPHONE NO.: (310) 888-7771 FAX NO. (Optional): (310) 888-0109 ATTORNEY FOR (Name): Plaintiff Robert LaCour		<b>FOR COURT USE ONLY</b>  <b>FILED BY FAX</b> ALAMEDA COUNTY  December 22, 2020  CLERK OF THE SUPERIOR COURT By Keisha Ghee, Deputy  CASE NUMBER: <b>RG20083534</b>					
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: 1225 Fallon Street CITY AND ZIP CODE: Oakland 94612 BRANCH NAME: Rene C. Davidson Courthouse							
CASE NAME: LACOUR v. MARSHALLS OF CA, LLC, et al.,							
<table border="1"> <tr> <th colspan="2">CIVIL CASE COVER SHEET</th> <th>Complex Case Designation</th> </tr> <tr> <td><input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)</td> <td><input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000)</td> <td> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder            Filed with first appearance by defendant            (Cal. Rules of Court, rule 3.402)         </td> </tr> </table>			CIVIL CASE COVER SHEET		Complex Case Designation	<input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000)
CIVIL CASE COVER SHEET		Complex Case Designation					
<input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000)	<input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)					

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/WD (23) <b>Non-PIPD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (36) <b>Employment</b> <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Five (5)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 21, 2020

Shaun Setareh

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET****CM-010**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES****Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

**Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/  
Wrongful Death  
Product Liability *(not asbestos or toxic/environmental)* (24)  
Medical Malpractice (45)  
Medical Malpractice—  
Physicians & Surgeons  
Other Professional Health Care  
Malpractice  
Other PI/PD/W/D (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/W/D (e.g., assault, vandalism)  
Intentional Infliction of  
Emotional Distress  
Negligent Infliction of  
Emotional Distress  
Other PI/PD/W/D

**Non-PI/PD/W/D (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice *(not medical or legal)*  
Other Non-PI/PD/W/D Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract *(not unlawful detainer or wrongful eviction)*  
Contract/Warranty Breach—Seller  
Plaintiff *(not fraud or negligence)*  
Negligent Breach of Contract/  
Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage *(not provisionally complex)* (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse  
Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

**Judicial Review**

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor  
Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims  
*(arising from provisionally complex case type listed above)* (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment *(non-domestic relations)*  
Sister State Judgment  
Administrative Agency Award  
*(not unpaid taxes)*  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint *(not specified above)* (42)  
Declaratory Relief Only  
Injunctive Relief Only *(non-harassment)*  
Mechanics Lien  
Other Commercial Complaint Case *(non-tort/non-complex)*  
Other Civil Complaint *(non-tort/non-complex)*

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition *(not specified above)* (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition



## F. ADDENDUM TO CIVIL CASE COVER SHEET

Short Title: LACOUR v. MARSHALLS OF CA, LLC, et al.,

Case Number:

## CIVIL CASE COVER SHEET ADDENDUM

THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA☐ Hayward Hall of Justice (447)☒ Oakland, Rene C. Davidson Alameda County Courthouse (446)☐ Pleasanton, Gale-Schenone Hall of Justice (448)

Civil Case Cover Sheet Category	Civil Case Cover Sheet Case Type	Alameda County Case Type (check only one)
Auto Tort	Auto tort (22)	<input type="checkbox"/> 34 Auto tort (G) Is this an uninsured motorist case? <input type="checkbox"/> yes <input type="checkbox"/> no
Other PI /PD / WD Tort	Asbestos (04) Product liability (24) Medical malpractice (45) Other PI/PD/WD tort (23)	<input type="checkbox"/> 75 Asbestos (D) <input type="checkbox"/> 89 Product liability (not asbestos or toxic tort/environmental) (G) <input type="checkbox"/> 97 Medical malpractice (G) <input type="checkbox"/> 33 Other PI/PD/WD tort (G)
Non - PI /PD / WD Tort	Bus tort / unfair bus. practice (07) Civil rights (08) Defamation (13) Fraud (16) Intellectual property (19) Professional negligence (25) Other non-PI/PD/WD tort (35)	<input type="checkbox"/> 79 Bus tort / unfair bus. practice (G) <input type="checkbox"/> 80 Civil rights (G) <input type="checkbox"/> 84 Defamation (G) <input type="checkbox"/> 24 Fraud (G) <input type="checkbox"/> 87 Intellectual property (G) <input type="checkbox"/> 59 Professional negligence - non-medical (G) <input type="checkbox"/> 03 Other non-PI/PD/WD tort (G)
Employment	Wrongful termination (36) Other employment (15)	<input checked="" type="checkbox"/> 38 Wrongful termination (G) <input type="checkbox"/> 85 Other employment (G) <input type="checkbox"/> 53 Labor comm award confirmation <input type="checkbox"/> 54 Notice of appeal - L.C.A.
Contract	Breach contract / Wrnty (06) Collections (09) Insurance coverage (18) Other contract (37)	<input type="checkbox"/> 04 Breach contract / Wrnty (G) <input type="checkbox"/> 81 Collections (G) <input type="checkbox"/> 86 Ins. coverage - non-complex (G) <input type="checkbox"/> 98 Other contract (G)
Real Property	Eminent domain / Inv Cdm (14) Wrongful eviction (33) Other real property (26)	<input type="checkbox"/> 18 Eminent domain / Inv Cdm (G) <input type="checkbox"/> 17 Wrongful eviction (G) <input type="checkbox"/> 36 Other real property (G)
Unlawful Detainer	Commercial (31) Residential (32) Drugs (38)	<input type="checkbox"/> 94 Unlawful Detainer - commercial <input type="checkbox"/> 47 Unlawful Detainer - residential <input type="checkbox"/> 21 Unlawful detainer - drugs Is the deft. in possession of the property? <input type="checkbox"/> Yes <input type="checkbox"/> No
Judicial Review	Asset forfeiture (05) Petition re: arbitration award (11) Writ of Mandate (02) Other judicial review (39)	<input type="checkbox"/> 41 Asset forfeiture <input type="checkbox"/> 62 Pet. re: arbitration award <input type="checkbox"/> 49 Writ of mandate Is this a CEQA action (Publ. Res. Code section 21000 et seq) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> 64 Other judicial review
Provisionally Complex	Antitrust / Trade regulation (03) Construction defect (10) Claims involving mass tort (40) Securities litigation (28) Toxic tort / Environmental (30) Ins covrg from cmplx case type (41)	<input type="checkbox"/> 77 Antitrust / Trade regulation <input type="checkbox"/> 82 Construction defect <input type="checkbox"/> 78 Claims involving mass tort <input type="checkbox"/> 91 Securities litigation <input type="checkbox"/> 93 Toxic tort / Environmental <input type="checkbox"/> 95 Ins covrg from complex case type
Enforcement of Judgment	Enforcement of judgment (20)	<input type="checkbox"/> 19 Enforcement of judgment <input type="checkbox"/> 08 Confession of judgment
Misc Complaint	RICO (27) Partnership / Corp. governance (21) Other complaint (42)	<input type="checkbox"/> 90 RICO (G) <input type="checkbox"/> 88 Partnership / Corp. governance (G) <input type="checkbox"/> 68 All other complaints (G)
Misc. Civil Petition	Other petition (43)	<input type="checkbox"/> 06 Change of name <input type="checkbox"/> 69 Other petition

# **EXHIBIT B**

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun setareh (SBN 204514) David Keledjian (SBN 309135) Setareh Law Group 9665 Wilshire Blvd., Suite 430 Beverly Hills, CA 90212 TELEPHONE NO.: 310-888-7771 FAX NO. (Optional): 310-888-0109 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff: ROBERT LACOUR		<b>FILED BY FAX</b> ALAMEDA COUNTY January 05, 2021 CLERK OF THE SUPERIOR COURT By Nicole Hall, Deputy CASE NUMBER: <b>RG20083534</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME: Rene C. Davidson Courthouse		
PLAINTIFF/PETITIONER: ROBERT LACOUR DEFENDANT/RESPONDENT: MARSHALLS OF CA, LLC, et al		CASE NUMBER: <b>RG20083534</b>
<b>PROOF OF SERVICE OF SUMMONS</b>		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a. ☒ summons
  - b. ☒ complaint
  - c. ☐ Alternative Dispute Resolution (ADR) package
  - d. ☒ Civil Case Cover Sheet (served in complex cases only)
  - e. ☐ cross-complaint
  - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):  
**MARSHALLS OF CA, LLC, a Virginia limited liability corporation**
  - b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
**Daisy Montenegro, Authorized To Accept Service Of Process**
4. Address where the party was served:  
**C.T. Corporation Systems, 818 W. 7th Street, #930. Los Angeles, CA 90017**
5. I served the party (check proper box)
  - a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **12/31/2020** (2) at (time): **11:45am**.
  - b. ☐ **by substituted service.** On (date): \_\_\_\_\_ at (time): \_\_\_\_\_ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
    - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): \_\_\_\_\_ from (city): \_\_\_\_\_ or ☐ a declaration of mailing is attached.
    - (5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: ROBERT LACOUR	CASE NUMBER:
DEFENDANT/RESPONDENT: MARSHALLS OF CA, LLC, et al	RG20083534

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid.
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): MARSHALLS OF CA, LLC, a Virginia limited liability corporation under the following Code of Civil Procedure section:
- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                     | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input checked="" type="checkbox"/> other: LLC                        |

7. Person who served papers.

- a. Name: George Todd
- b. Address: 645 W. 9th Street, #110-302, Los Angeles, CA 90015
- c. Telephone number: 213-308-1759
- d. The fee for service was: \$ 25.40
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server.
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 2016159739
- (iii) County: Los Angeles

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 12/31/2020

George Todd

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun setareh (SBN 204514) David Keledjian (SBN 309135) Setareh Law Group 9665 Wilshire Blvd., Suite 430 Beverly Hills, CA 90212 TELEPHONE NO.: 310-888-7771 FAX NO. (Optional): 310-888-0109 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff: ROBERT LACOUR		<b>FILED BY FAX</b> ALAMEDA COUNTY January 05, 2021 CLERK OF THE SUPERIOR COURT By Nicole Hall, Deputy CASE NUMBER: <b>RG20083534</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME: Rene C. Davidson Courthouse		CASE NUMBER: <b>RG20083534</b>
PLAINTIFF/PETITIONER: ROBERT LACOUR DEFENDANT/RESPONDENT: MARSHALLS OF CA, LLC, et al		CASE NUMBER: <b>RG20083534</b>
<b>PROOF OF SERVICE OF SUMMONS</b>		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a. ☒ summons
  - b. ☒ complaint
  - c. ☐ Alternative Dispute Resolution (ADR) package
  - d. ☒ Civil Case Cover Sheet (served in complex cases only)
  - e. ☐ cross-complaint
  - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):  
**MARSHALLS OF MA, INC., a Massachusetts corporation.**
- b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
**Daisy Montenegro, Authorized To Accept Service Of Process**
4. Address where the party was served:  
**C.T. Corporation Systems, 818 W. 7th Street, #930, Los Angeles, CA 90017**
5. I served the party (check proper box)
  - a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **12/31/2020** (2) at (time): **11:45am**
  - b. ☐ **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
    - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
    - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2



PLAINTIFF/PETITIONER: ROBERT LACOUR	CASE NUMBER:
DEFENDANT/RESPONDENT: MARSHALLS OF CA, LLC, et al	RG20083534

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): MARSHALLS OF MA, INC., a Massachusetts corporation under the following Code of Civil Procedure section:
- |   |   |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation)          | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input type="checkbox"/> other: LLC                                   |

7. Person who served papers

- a. Name: George Todd
- b. Address: 645 W. 9th Street, #110-302, Los Angeles, CA 90015
- c. Telephone number: 213-308-1759
- d. The fee for service was: \$ 25.40
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 2016159739
- (iii) County: Los Angeles

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

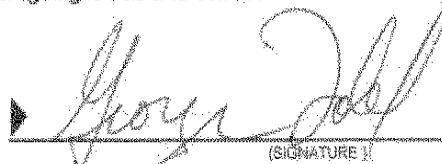
or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 12/31/2020

George Todd

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Shaun setareh (SBN 204514) David Keledjian (SBN 309135) Setareh Law Group 9665 Wilshire Blvd., Suite 430 Beverly Hills, CA 90212 TELEPHONE NO.: 310-888-7771 FAX NO. (Optional): 310-888-0109 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff: ROBERT LACOUR		<b>FILED BY FAX</b> ALAMEDA COUNTY January 05, 2021 CLERK OF THE SUPERIOR COURT By Nicole Hall, Deputy CASE NUMBER: <b>RG20083534</b>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME: Rene C. Davidson Courthouse		
PLAINTIFF/PETITIONER: ROBERT LACOUR DEFENDANT/RESPONDENT: MARSHALLS OF CA, LLC, et al		CASE NUMBER: <b>RG20083534</b>
<b>PROOF OF SERVICE OF SUMMONS</b>		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
  - ☒ summons
  - ☒ complaint
  - ☐ Alternative Dispute Resolution (ADR) package
  - ☒ Civil Case Cover Sheet (served in complex cases only)
  - ☐ cross-complaint
  - ☐ other (specify documents):
- Party served (specify name of party as shown on documents served):  
**THE TJX COMPANIES, INC., a Delaware corporation**
  - ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
**Daisy Montenegro, Authorized To Accept Service Of Process**
- Address where the party was served:  
**C.T. Corporation Systems, 818 W. 7th Street, #930, Los Angeles, CA 90017**
- I served the party (check proper box)
  - ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **12/31/2020** (2) at (time): **11:45am**
  - ☐ **by substituted service.** On (date): \_\_\_\_\_ at (time): \_\_\_\_\_ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): \_\_\_\_\_
    - ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): \_\_\_\_\_ from (city): \_\_\_\_\_ or ☐ a declaration of mailing is attached.
    - ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: ROBERT LACOUR	CASE NUMBER:
DEFENDANT/RESPONDENT: MARSHALLS OF CA, LLC, et al	RG20083534

5. c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid.
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): THE TJX COMPANIES, INC., a Delaware corporation

under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation)          | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input type="checkbox"/> other: LLC                                   |

7. Person who served papers.

- a. Name: George Todd
- b. Address: 645 W. 9th Street, #110-302, Los Angeles, CA 90015
- c. Telephone number: 213-308-1759
- d. The fee for service was: \$ 25.40
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 2016159739
- (iii) County: Los Angeles

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

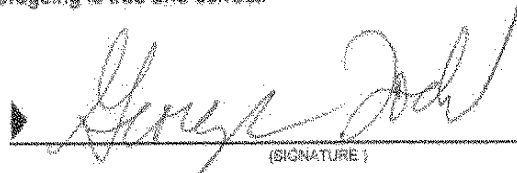
or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 12/31/2020

George Todd

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)



Setareh Law Group  
 Attn: Setareh, Shaun  
 9665 Wilshire Blvd.  
 Suite 430  
 Beverly Hills, CA 90212

### Superior Court of California, County of Alameda

Lacour

Plaintiff/Petitioner(s)

vs.

Marshall's of CA, LLC

Defendant/Respondent(s)

(Abbreviated Title)

No. RG20083534

### NOTICE OF CASE MANAGEMENT CONFERENCE AND ORDER Unlimited Jurisdiction

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 05/06/2021 Time: 03:00 PM	Department: 514 Location: Hayward Hall of Justice 2nd Floor 24405 Amador Street, Hayward CA 94544 Internet: <a href="http://www.alameda.courts.ca.gov">www.alameda.courts.ca.gov</a>	Judge: Delbert C. Gee Clerk: Cynthia Trinidad Clerk telephone: (510) 690-2723 E-mail: <a href="mailto:Dept514@alameda.courts.ca.gov">Dept514@alameda.courts.ca.gov</a> Fax: (510) 267-1584
------------------------------------	--	--

### ORDERS

1. **Plaintiff must:**
  - a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (Cal. Rules of Court, 3.110(b)); and
  - b. Give notice of this conference to all other parties and file proof of service.
2. **Defendant must respond as stated on the summons.**
3. **All parties who have appeared before the date of the conference must:**
  - a. Meet and confer, in person or by telephone as required by Cal. Rules of Court, rule 3.724;
  - b. File and serve a completed *Case Management Statement* on Form CM-110 at least 15 days before the Case Management Conference (Cal. Rules of Court, rule 3.725); and
  - c. Post jury fees as required by Code of Civil Procedure section 631.
4. If you do not follow the orders above, the court may issue an order to show cause why you should not be sanctioned under Cal. Rules of Court, rule 2.30. Sanctions may include monetary sanctions, striking pleadings or dismissal of the action.
5. You are further ordered to appear in person or through your attorney of record at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed. You may be able to appear at Case Management Conferences by telephone. Contact CourtCall, an independent vendor, at least three business days before the scheduled conference. Call 1-888-882-6878, or fax a service request to (888) 882-2946. The vendor charges for this service.
6. You may file *Case Management Conference Statements* by E-Delivery. Submit them directly to the E-Delivery Fax Number (510) 267-5732. No fee is charged for this service. For further information, go to [www.alameda.courts.ca.gov/fj](http://www.alameda.courts.ca.gov/fj).
7. The judge may place a *Tentative Case Management Order* in your case's on-line register of actions before the conference. This order may establish a discovery schedule, set a trial date or refer the case to Alternate Dispute Resolution, such as mediation or arbitration. Check the website of each assigned department for procedures regarding tentative case management orders at [www.alameda.courts.ca.gov/dc](http://www.alameda.courts.ca.gov/dc).

---

**CLERK'S CERTIFICATE OF MAILING**

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 12/29/2020.

By

 Digital

Deputy Clerk

***Superior Court of California, County of Alameda***



***Notice of Assignment of Judge for All Purposes***

Case Number: RG20083534

Case Title: Lacour VS Marshalls of CA, LLC

Date of Filing: 12/22/2020

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 3.734 of the California Rules of Court and Title 3 Chapter 2 of the Local Rules of the Superior Court of California, County of Alameda, this action is hereby assigned by the Presiding Judge for all purposes to:

Judge:	Delbert C. Gee
Department:	514
Address:	Hayward Hall of Justice 24405 Amador Street Hayward CA 94544
Phone Number:	(510) 690-2723
Fax Number:	(510) 267-1584
Email Address:	Dept514@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

**Please note:** In this case, any challenge pursuant to Code of Civil Procedure section 170.6 must be exercised within the time period provided by law. (See Code Civ. Proc. §§ 170.6, subd. (a)(2) and 1013.)

**NOTICE OF NONAVAILABILITY OF COURT REPORTERS:** Effective June 4, 2012, the court will not provide a court reporter for civil law and motion hearings, any other hearing or trial in civil departments, or any afternoon hearing in Department 201 (probate). Parties may arrange and pay for the attendance of a certified shorthand reporter. In limited jurisdiction cases, parties may request electronic recording.

Amended Local Rule 3.95 states: "Except as otherwise required by law, in general civil case and probate departments, the services of an official court reporter are not normally available. For civil trials, each party must serve and file a statement before the trial date indicating whether the party requests the presence of an official court reporter."

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULES.

### **General Procedures**

Following assignment of a civil case to a specific department, all pleadings, papers, forms, documents and writings can be submitted for filing at either Civil Clerk's Office, located at the René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California, 94612, and the Hayward Hall of Justice, 24405 Amador Street, Hayward, California, 94544. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO  
JUDGE Delbert C. Gee  
DEPARTMENT 514

All parties are expected to know and comply with the Local Rules of this Court, which are available on the court's website at: [http://www.alameda.courts.ca.gov/Pages.aspx/Local-Rules\(1\)](http://www.alameda.courts.ca.gov/Pages.aspx/Local-Rules(1)) and with the California Rules of Court, which are available at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

Parties must meet and confer to discuss the effective use of mediation or other alternative dispute processes (ADR) prior to the Initial Case Management Conference. The court encourages parties to file a "Stipulation to Attend ADR and Delay Initial Case Management Conference for 90 Days". Plaintiff received that form in the ADR information package at the time the complaint was filed. The court's website also contains this form and other ADR information. If the parties do not stipulate to attend ADR, the parties must be prepared to discuss referral to ADR at the Initial Case Management Conference.

Chambers copies of all papers filed in connection with any hearing (motion, ex parte application) shall be delivered to Dept. 514 on the date of filing. For discovery motions, the court requires compliance with Local Rule 3.31 before a reservation number will be provided. (See below).

Appearances by attorneys not counsel of record are not permitted except for good cause shown. Any appearing counsel must have full authority to make decisions on a case. All references to counsel apply equally to self-represented parties and must comply the rules cited in this Notice. Hearings and calendar events are scheduled by EMAIL ONLY to Dept. 514. Except for scheduling matters, all emails to the Court must include all other parties (or their counsel, if represented) and must show that all other parties have been copied. All parties are required to include available email addresses in the caption of all filed papers, as required by California Rules of Court 2.111(1).

### **Schedule for Department 514**

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions.

- Trials generally are held: Fridays at 9:00 a.m. for Jury and Court Trials. Trial Readiness Conferences are held 2 weeks prior to the trial date. Compliance with Local Rule 3.35 and personal appearance of trial counsel is required.
- Case Management Conferences are held: Tuesday -Thursday at 8:30 a.m. (ICMC) and Monday-Thursday at 8:30 a.m. (CMCC) Timely-filed and complete CMC statements are required. Tentative rulings for case management conferences are available in the register of actions.

- Law and Motion matters are heard: Tuesdays at 2:30 p.m. and Fridays at 1:30 p.m. Email Dept. 514 for reservations. Chambers copies of all papers shall be delivered to Dept. 514 on the date of filing.
- Settlement Conferences are heard: Counsel are encouraged to consider alternative dispute resolution. Settlement Conferences may be specially set on a case-specific basis.
- Ex Parte matters are heard: Monday, Wednesday, Thursday at 2:30 p.m. Chambers copies of all papers shall be delivered to Dept. 514 on the date of filing. The applicant must provide CRC 3.1203(a) notice to all parties.
- For L&M Email: Dept514@alameda.courts.ca.gov. Include case name & number, title of motion and identity of moving party and affirmation that the parties have met and conferred on agreeable dates before requesting a hearing date. No Discovery motion may be filed until an informal discovery conference ("IDC") has been held or denied by the court, as set forth in Local Rule 3.31. Email Dept. 514 to schedule an IDC and submit declarations in conformity with Rule 3.31. When requesting a hearing date for a discovery motion, include information about the IDC, including the date the hearing was held or denied.

#### **Law and Motion Procedures**

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations  
Email: Dept514@alameda.courts.ca.gov
- Ex Parte Matters  
Email: Dept514@alameda.courts.ca.gov

#### **Tentative Rulings**

The court may issue tentative rulings in accordance with the Local Rules. Tentative rulings will become the Court's order unless contested in accordance with the Local Rules. Tentative rulings will be available at:

- Website: [www.alameda.courts.ca.gov/domainweb](http://www.alameda.courts.ca.gov/domainweb), Calendar Information for Dept. 514
- Phone: 1-866-223-2244



Dated: 12/28/2020



Facsimile

Presiding Judge,  
Superior Court of California, County of Alameda

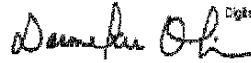
---

**CLERK'S CERTIFICATE OF MAILING**

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 12/29/2020

By



Deputy Clerk

12/29/2020

# EXHIBIT C

1 AMY TODD-GHER, Bar No. 208581  
ATodd-Gher@littler.com  
2 DENISE TRAN-NGUYEN, Bar No. 286672  
dtrannguyen@littler.com  
3 LITTLER MENDELSON, P.C.  
501 W. Broadway, Suite 900  
4 San Diego, CA 92101.3577  
Telephone: 619.232.0441  
5 Fax No.: 619.232.4302

6 Attorneys for Defendants  
MARSHALLS OF CA, LLC, MARSHALLS OF  
7 MA, INC. AND THE TJX COMPANIES, INC.

8  
9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF ALAMEDA

11 ROBERT LACOUR, an individual,

12 Plaintiff,

13 v.

14 MARSHALLS OF CA, LLC, a Virginia  
limited liability corporation;  
15 MARSHALLS OF MA, INC., a  
Massachusetts corporation; THE TJX  
16 COMPANIES, INC., a Delaware  
corporation; and DOES 1 through 50,  
17 inclusive,

18 Defendant.

Case No. RG20083534

ASSIGNED FOR ALL PURPOSES TO JUDGE  
DELBERT C. GEE/ DEPT. 514

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S COMPLAINT**

Dept. 514  
Judge: Delbert C. Gee

Complaint filed: December 22, 2020



Defendants MARSHALLS OF CA, LLC, MARSHALLS OF MA, INC., and THE TJX COMPANIES, INC. ("Defendants") hereby answer the unverified Complaint ("Complaint") filed by Plaintiff ROBERT LACOUR ("Plaintiff"), as follows:

### **GENERAL DENIAL**

Pursuant to the provisions of the California Code of Civil Procedure section 431.30(d), Defendants deny generally and specifically each and every allegation contained in the Complaint. In addition, Defendants deny that Plaintiff have sustained, or will sustain, any loss or damage in the manner or amount alleged, or otherwise, by reason of any act or omission, or any other conduct or absence thereof on the part of Defendants. Defendants further asserts the following separate and distinct defenses:

### **AFFIRMATIVE DEFENSES**

In further answer to the Complaint, and as separate and affirmative and other defenses Defendants allege the following defenses. In asserting these defenses, Defendants do not assume the burden of proof as to matters that, as a matter of law, are Plaintiff's burden to prove.

#### **FIRST AFFIRMATIVE DEFENSE**

##### **(Failure to State a Claim)**

1. As a separate and distinct affirmative defense, Defendants allege that the Complaint, and each and every cause of action and/or claim for relief alleged therein, fails to state facts sufficient to constitute a cause of action upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

##### **(Lack of Subject Matter Jurisdiction – Binding Arbitration)**

2. As a separate and distinct affirmative defense, Defendants allege that the Court lacks subject matter jurisdiction over Plaintiff's Complaint and each purported cause of action therein as Plaintiff is subject to an agreement requiring that he submit his claims against Defendants to binding arbitration. Defendants, by answering the Complaint, do not waive their right to demand arbitration.

#### **THIRD AFFIRMATIVE DEFENSE**

##### **(Arbitration – Complaint Barred)**

3. As a separate and distinct affirmative defense, Defendants allege the Complaint and

every alleged cause of action therein is barred on grounds that there exists a written agreement between Plaintiff, on the one hand, and Defendants on the other, to submit any and all employment-related claims to final and binding arbitration and that each and every cause of action alleged in the Complaint is subject to final and binding arbitration in accordance with the terms of said written agreement.

#### **FOURTH AFFIRMATIVE DEFENSE**

##### **(Arbitration – Contractual Duty)**

4. As a separate and distinct affirmative defense, Defendants allege that Plaintiff failed to comply with his contractual duty to submit his claims to arbitration, and as such, his claims should be stayed and/or dismissed in their entirety.

#### **FIFTH AFFIRMATIVE DEFENSE**

##### **(Preemption)**

5. As a separate and distinct affirmative defense, Defendants allege the Complaint cannot be filed and litigated in court or before a jury on grounds that all claims pled in the Complaint are covered by an applicable arbitration agreement between the Parties governed by the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.* (“FAA”), and that the FAA preempts state law that treats arbitration agreements on unequal footing as other contracts and discriminates against arbitration.

#### **SIXTH AFFIRMATIVE DEFENSE**

##### **(Statute of Limitations)**

6. As a separate and distinct affirmative defense, Defendants allege that each purported cause of action set forth in the Complaint is barred in whole or in part by the applicable statute(s) of limitation, including but not limited to, the limitations periods contained in California Government Code section 12960(d) and California Code of Civil Procedure §§ 335.1, 340(a), and 340(b).

#### **SEVENTH AFFIRMATIVE DEFENSE**

##### **(Waiver, Estoppel, Laches, Unclean Hands)**

7. As a separate and distinct affirmative defense, Defendants allege that the Complaint and each cause of action therein are barred, in whole or in part, by the doctrine of waiver, estoppel, laches, and/or unclean hands.

**EIGHTH AFFIRMATIVE DEFENSE****(Legitimate, Non-Discriminatory Basis for Employment Decision)**

8. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's Complaint and each purported cause of action therein, or some of them, are barred because all acts or omissions allegedly attributed to Defendants represented the just and proper exercise of Defendants' managerial discretion and were undertaken for non-discriminatory, non-retaliatory, honest reasons, regulated by good faith and probable cause under the circumstances at the time of such acts or omissions.

**NINTH AFFIRMATIVE DEFENSE****(Avoidable Consequences)**

9. As a separate and distinct affirmative defense, Defendants allege any damages that would otherwise be recoverable by Plaintiff (while denying that any such damages exist) should be limited by virtue of the doctrine of avoidable consequences as set forth in *State Department of Health Services v. Superior Court* (2003) 31 Cal. 4th 1026, 1043, because: (a) Defendants exercised reasonable care to prevent and correct promptly any unlawful behavior; and (b) Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendants to employees to "otherwise avoid harm" as that expression is used in *Burlington Northern Industries, Inc. v. Ellerth* (1998) 524 U.S. 742 and *Faragher v. City of Boca Raton* (1998) 524 U.S. 775; and (c) Plaintiff's reasonable use of Defendants' policies and procedures would have prevented all or some of the purported harm of which Plaintiff now complains.

**TENTH AFFIRMATIVE DEFENSE****(Good Faith Conduct)**

10. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's Complaint, and each cause of action alleged therein, are barred, in whole or in part, because Defendants acted reasonably and in good faith, at all times, without discrimination based upon all relevant facts and circumstances known by Defendants at the time they acted.

///

///

**ELEVENTH AFFIRMATIVE DEFENSE****(After Acquired Evidence)**

11. As a separate and distinct affirmative defense, Defendants allege that, to the extent that during the course of this litigation they acquire any evidence of additional wrongdoing by Plaintiff, which wrongdoing would have materially affected the terms and conditions of Plaintiff's employment or would have resulted in Plaintiff either being demoted, disciplined, or terminated, such after-acquired evidence shall bar Plaintiff's claims on liability or damages or shall reduce such claims as provided by law.

**TWELFTH AFFIRMATIVE DEFENSE****(Failure to Exhaust Internal Remedies)**

12. As a separate and distinct affirmative defense, Defendants allege that the Complaint and each cause of action set forth therein, or some of them, are barred, in whole or in part, by Plaintiff's failure to exhaust appropriate internal remedies.

**THIRTEENTH AFFIRMATIVE DEFENSE****(Failure to Exhaust Administrative Remedies)**

13. As a separate and distinct affirmative defense, Defendants allege that the Complaint and each cause of action set forth therein are barred in whole or in part to the extent that Plaintiff failed to exhaust his administrative remedies.

**FOURTEENTH AFFIRMATIVE DEFENSE****(Outside Scope of Administrative Exhaustion)**

14. As a separate and distinct affirmative defense, Defendants allege that the Complaint and each cause of action set forth therein are barred, in whole or in part, because the causes of action asserted in the Complaint exceed the scope of any Charges filed with the California Department of Fair Employment and Housing ("DFEH") and/or the Equal Employment Opportunity Commission ("EEOC").

**FIFTEENTH AFFIRMATIVE DEFENSE****(Mixed Motive)**

15. As a separate and distinct affirmative defense, Defendants allege that, without

1 admitting any unlawful or wrongful acts took place, if any unlawful, harassing, or discriminatory  
 2 motive existed in connection with any employment decision involving Plaintiff, which Defendants  
 3 deny, Plaintiff's claims are barred because such employment decision would have been the same even  
 4 without any such unlawful, harassing, or discriminatory motive.

#### 5 **SIXTEENTH AFFIRMATIVE DEFENSE**

##### 6 **(Third-Party Conduct)**

7 16. As a separate and distinct affirmative defense, Defendants allege that the Complaint  
 8 and each cause of action set forth therein, or some of them, cannot be maintained against Defendants  
 9 because the alleged losses or harms sustained by Plaintiff, if any, resulted from causes other than any  
 10 act or omission of Defendants.

#### 11 **SEVENTEENTH AFFIRMATIVE DEFENSE**

##### 12 **(Breach of Duty)**

13 17. As a separate and distinct affirmative defense, Defendants allege that the claims of  
 14 Plaintiff are barred by his own breach of duties owed under California Labor Code sections 2854,  
 15 2856-2869.

#### 16 **EIGHTEENTH AFFIRMATIVE DEFENSE**

##### 17 **(Consent and/or Voluntary Participation in Conduct)**

18 18. As a separate and distinct affirmative defense, Defendants allege that some or all of the  
 19 causes of action in the Complaint cannot be maintained because Plaintiff initiated, welcomed,  
 20 consented to and/or voluntarily participated in all or some of the acts alleged or conduct similar thereto.

#### 21 **NINETEENTH AFFIRMATIVE DEFENSE**

##### 22 **(Lack of Knowledge)**

23 19. As a separate and distinct affirmative defense, Defendants allege that they did not have  
 24 reason to know, and could not have known, of the harassing and/or discriminatory conduct alleged by  
 25 Plaintiff in the Complaint.

#### 26 **TWENTIETH AFFIRMATIVE DEFENSE**

##### 27 **(No Proximate Cause)**

28 20. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's

1 Complaint and each purported Cause of Action set forth therein, or some of them, are barred because  
 2 Plaintiff's alleged injuries were not proximately caused by any unlawful policy, custom, practice  
 3 and/or procedure promulgated and/or tolerated by Defendants. This defense is being asserted as a  
 4 matter of right. Defendants believe discovery will establish facts to support this assertion.

5 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

6 **(Plaintiff's Own Misconduct)**

7 21. As a separate and distinct affirmative defense, Defendants allege that the loss incurred  
 8 by Plaintiff, if any, is attributable to the acts and omissions of Plaintiff.

9 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

10 **(No Ratification/Authorization)**

11 22. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's  
 12 Complaint, and each and every cause of action therein, is barred to the extent any purportedly unlawful  
 13 or other wrongful acts of any person employed by it were outside the scope of that employee's  
 14 authority, that such acts, if any, were not authorized, ratified, or condoned by Defendants, and that  
 15 Defendants did not know or have reason to be aware of such alleged conduct.

16 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

17 **(At-Will Employment)**

18 23. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's  
 19 employment was terminable at the will of either Plaintiff or Defendants, with or without notice and  
 20 with or without cause pursuant to California Labor Code section 2922.

21 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

22 **(Failure to Mitigate Damages)**

23 24. As a separate and distinct affirmative defense, Defendants allege that Plaintiff failed to  
 24 mitigate any damages which may have been suffered, and as a result of such failure to mitigate, any  
 25 damages awarded must be reduced accordingly.

26 ///

27 ///

28 ///

**TWENTY-FIFTH AFFIRMATIVE DEFENSE****(Offset)**

25. As a separate and distinct affirmative defense, Defendants allege that any recovery to which Plaintiff might otherwise be entitled must be offset by any disability or unemployment benefits and/or other monies and/or benefits Plaintiff has received or will receive.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE****(Privileged/Justified Conduct)**

26. As a separate and distinct affirmative defense, Defendants allege that the Complaint and each cause of action set forth therein cannot be maintained because, without admitting that they engaged in any of the acts alleged, Defendants allege that any conduct and/or statements attributed to them by Plaintiff were justified, made in good faith, for legitimate non-discriminatory reasons, and/or were privileged pursuant to California law including, but limited to, California Civil Code section 47.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE****(No Extreme or Outrageous Conduct)**

27. As a separate and distinct affirmative defense, Defendants allege that Plaintiff cannot state a claim for intentional infliction of emotional distress because Defendants' conduct was not extreme and outrageous.

**TWENTY-EIGHTH AFFIRMATIVE DEFENSE****(Alleged Emotional Distress Not Attributed to Defendants)**

28. As a separate and distinct affirmative defense, Defendants allege that if any emotional and/or mental distress was in fact suffered by Plaintiff, which Defendants deny, it was proximately caused by factors other than any act and/or omission of Defendants or anyone acting on Defendants' behalf.

**TWENTY-NINTH AFFIRMATIVE DEFENSE****(Unavailability of Equitable Relief)**

29. As a separate and distinct affirmative defense, Defendants allege that the Complaint and each claim for relief therein, or some of them, are barred to the extent that Plaintiff seeks to recover equitable relief as Plaintiff is not entitled to such relief because he has an adequate remedy at law.



**THIRTIETH AFFIRMATIVE DEFENSE**

**(Business & Professions Code § 17200 *et seq.* – Compliance With Obligations)**

30. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's claims are barred in whole or in part because compliance with all applicable laws, statutes, and regulations affords Defendants a safe harbor to any claim under California Business & Professions Code § 17200 *et seq.*

**THIRTY-FIRST AFFIRMATIVE DEFENSE**

**(Business & Professions Code § 17200 *et seq.* – No Injury)**

31. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's Complaint, and each allegation set forth therein, or some of them, are barred because Plaintiff lacks standing to sue under California Business & Professions Code Section 17200 as he has not suffered any injury in fact or lost money or property as a result of any allegedly unlawful business practice of Defendants.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

**(Business & Professions Code § 17200 *et seq.* – No Damages)**

32. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's claims for restitution pursuant to California Business & Professions Code § 17200 *et seq.* are barred to the extent they constitute claims for damages.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

**(Claims Barred Where Violations Have Discontinued)**

33. As a separate and distinct affirmative defense, Defendants allege that Plaintiff's claims for recovery in the form of restitution, disgorgement, or injunctive relief under California Business and Professions Code section 17200 *et seq.*, are barred with respect to any alleged violations that have been discontinued, ceased, or not likely to recur.

**THIRTY-FOURTH AFFIRMATIVE DEFENSE**

**(No Cognizable Damage Or Harm/No Violation of Public Policy)**

34. As a separate and distinct defense, Defendants allege, without admitting that Defendants engaged in any of the acts or omissions alleged in Plaintiff's Complaint, that the wrongful

1 termination in violation of public policy claims is barred, in whole or in part, because Plaintiff's  
 2 employment was not terminated in violation of any fundamental, well-established public policy  
 3 embodied in law or statute.

#### 4 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

##### 5 **(Workers' Compensation Preemption)**

6 35. As a separate and distinct affirmative defense, Defendants allege that the Complaint  
 7 and each and every cause of action therein, or some of them, are preempted and barred, in whole or in  
 8 part, by the exclusive remedy provisions of the California Workers' Compensation Act, California  
 9 Labor Code section 3200, *et seq.*, inasmuch as they involve an employer-employee relationship subject  
 10 to workers' compensation coverage, conduct of Plaintiff in the course and scope of his employment,  
 11 and an injury alleged by Plaintiff to have been proximately caused by his employment and, therefore,  
 12 the Court lacks subject matter jurisdiction over such claims.

#### 13 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

##### 14 **(No Injury)**

15 36. As a separate and distinct defense to the Complaint, Defendants allege, that the  
 16 Complaint, and each cause of action set forth therein, or some of them, is barred because Plaintiff  
 17 lacks standing to sue under California Business and Professions Code section 17200 *et seq.* as he has  
 18 not suffered any injury in fact or lost money or property as a result of any allegedly unlawful business  
 19 practice of Defendants.

#### 20 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

##### 21 **(Failure to State A Claim for Punitive Damages)**

22 37. As a separate and distinct affirmative defense, Defendants allege that the Complaint  
 23 fails to state facts sufficient to constitute any claim for punitive damages under California Code  
 24 Section 3294, or any other statutory or common-law provision.

#### 25 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

##### 26 **(Punitive Damages Unconstitutional)**

27 38. As a separate and distinct affirmative defense, Defendants allege that Plaintiff is not  
 28 entitled to recover punitive damages because the imposition of such damages violates the United States

1 and California Constitutions, in that: (1) such damages are so punitive in purpose and effect as to  
 2 constitute a criminal penalty, entitling Defendants to right to be to defendants in criminal proceedings  
 3 under the United States and California Constitutions; (2) the imposition of such damages would violate  
 4 Defendants' right to due process and/or equal protection under the law, under the United States and  
 5 California Constitutions; and/or (3) the California punitive damages statute is unconstitutional in that  
 6 it imposes an undue burden on interstate commerce.

### 7 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

#### 8 **(Bona Fide Policy)**

9 39. As a separate and distinct affirmative defense, Defendants allege that they had  
 10 implemented and at all relevant times maintained a bona fide policy against unlawful discrimination  
 11 which was posted and/or made reasonably available to all employees and, therefore, it is not  
 12 vicariously liable for punitive damages based on the alleged misconduct of its employees and  
 13 managers, if any.

### 14 **ADDITIONAL DEFENSES**

15 Defendants respectively reserve the right to amend this Answer should they later discover facts  
 16 demonstrating the existence of new and/or additional affirmative defenses, and/or should a change in  
 17 the inclusion of new and/or additional affirmative defenses

### 18 **PRAYER FOR RELIEF**

19 WHEREFORE, Defendants pray for judgment from this Court as follows:

- 20 1. That Plaintiff take nothing by this action;
- 21 2. That the Complaint be dismissed with prejudice and that judgment be entered against  
 22 Plaintiff and in favor of Defendants on each of Plaintiff's causes of action;
- 23 3. That Plaintiff be ordered to pay Defendants' costs and attorneys' fees, including, but  
 24 not limited to, costs and attorneys' fees provided under California Labor Code section 218.5; and

25 ///

26 ///

27 ///

28 ///

1 4. Such other and further relief as the Court deems appropriate and proper.

2  
3 Dated: January 28, 2021

4 

5 AMY TODD-GHER  
6 DENISE TRAN-NGUYEN  
7 LITTLER MENDELSON, P.C.  
8 Attorneys for Defendants  
9 MARSHALLS OF CA, LLC, MARSHALLS  
10 OF MA, INC. AND THE TJX COMPANIES,  
11 INC.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
4811-8793-6984.1 053070.1312

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Amy Todd-Gher, SBN 208581; Denise Tran-Nguyen, SBN 286672 LITTLER MENDELSON, P.C. 501 W. Broadway, Suite 900 San Diego, CA 92101-3577 TELEPHONE NO.: (619) 232-0441 FAX NO. (Optional): (619) 232-4302 E-MAIL ADDRESS (Optional): <a href="mailto:atodd-gher@littler.com">atodd-gher@littler.com</a> ; <a href="mailto:blmccarthy@littler.com">blmccarthy@littler.com</a> ATTORNEY FOR (Name): Defendants MARSHALL OF CA, LLC, et al.	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: 1225 Fallon Street CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME: Rene C. Davidson Courthouse	CASE NUMBER: RG20083534
PLAINTIFF/PETITIONER: ROBERT LACOUR DEFENDANT/RESPONDENT: MARSHALLS OF CA, LLC, et al.	JUDGE: Hon. Delbert C. Gee DEPT.: 514
<b>PROOF OF SERVICE—CIVIL</b> <b>Check method of service (only one):</b> <input type="checkbox"/> By Personal Service <input type="checkbox"/> By Mail <input type="checkbox"/> By Overnight Delivery <input type="checkbox"/> By Messenger Service <input type="checkbox"/> By Fax <input checked="" type="checkbox"/> By Electronic Service	

**(Do not use this proof of service to show service of a Summons and complaint.)**

1. At the time of service I was over 18 years of age and **not a party to this action.**
2. My residence or business address is:  
501 W. Broadway, Suite 900, San Diego, CA 92101-3577.
3. ☒ The fax number or electronic service address from which I served the documents is *(complete if service was by fax or electronic service)*: [mruvalcaba@littler.com](mailto:mruvalcaba@littler.com)
4. On *(date)*: January 28, 2021 I served the following **documents** *(specify)*:

**SEE ATTACHED POS-040(D)**

- ☒ The documents are listed in the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)).

5. I served the documents on the **person or persons** below, as follows:

- a. Name of person served: **Shaun Setareh, Esq., Thomas Segal, Esq., Farrah Grant, Esq.**
- b. ☐ *(Complete if service was by personal service, mail, overnight delivery, or messenger service.)*

Business or residential address where person was served:

**SEE ATTACHED POS-040(P)**

- c. ☒ *(Complete if service was by fax or electronic service.)*

- (1) Fax number or electronic service address where person was served:

[shaun@setarehlaw.com](mailto:shaun@setarehlaw.com); [thomas@setarehlaw.com](mailto:thomas@setarehlaw.com); [farrah@setarehlaw.com](mailto:farrah@setarehlaw.com); [calendar@setarehlaw.com](mailto:calendar@setarehlaw.com)

- (2) Time of service:

- ☒ The names, addresses, and other applicable information about persons served is on the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)).

6. The documents were served by the following means *(specify)*: **E-MAIL**

- a. ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

CASE NAME ROBERT LACOUR v. MARSHALLS OF CA, LLC, et al.	CASE NUMBER: RG20083534
--	----------------------------

6. b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (*specify one*):
- (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
  - (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):
- c. ☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (*A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.*)
- e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- f. ☒ **By electronic service.** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed in item 5.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 28, 2021

Maria Ruvalcaba

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

#### DECLARATION OF MESSENGER

- ☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (*date*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(NAME OF DECLARANT)

\_\_\_\_\_  
(SIGNATURE OF DECLARANT)

<b>SHORT TITLE:</b> ROBERT LACOUR v. MARSHALLS OF CA, LLC, et al.	<b>CASE NUMBER:</b> RG20083534
--	-----------------------------------

**ATTACHMENT TO PROOF OF SERVICE— CIVIL (DOCUMENTS SERVED)***(This Attachment is for use with form POS-040)*The documents that were served are as follows *(describe each document specifically)*:**DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT**




POS-040(P)

SHORT TITLE: ROBERT LACOUR v. MARSHALLS OF CA, LLC, et al.	CASE NUMBER: RG20083534
---	----------------------------

**ATTACHMENT TO PROOF OF SERVICE—CIVIL (PERSONS SERVED)***(This attachment is for use with form POS-040.)***NAMES, ADDRESSES, AND OTHER APPLICABLE INFORMATION ABOUT PERSONS SERVED:**

<u>Name of Person Served</u>	<u>Where Served</u>	<u>Time of Service</u>
<i>(If the person served is an attorney, the party or parties represented should also be stated.)</i>	<i>(Provide business or residential address where service was made by personal service, mail, overnight delivery, or messenger service. For other means of service, provide fax number or electronic service address, as applicable.)</i>	<i>(Complete for service by fax transmission or electronic service.)</i>
Shaun Setareh, Esq. Thomas Segal, Esq. Farrah Grant, Esq. Attorneys for Plaintiff <u>ROBERT LACOUR</u>	SETAREH LAW GROUP 9665 Wilshire Blvd., Suite 430 Beverly Hills, CA 90212 Telephone: 310.888.7771 Facsimile: 310.888.0109 <a href="mailto:shaun@setarehlaw.com">shaun@setarehlaw.com</a> <a href="mailto:thomas@setarehlaw.com">thomas@setarehlaw.com</a> <a href="mailto:farrah@setarehlaw.com">farrah@setarehlaw.com</a> <a href="mailto:calendar@setarehlaw.com">calendar@setarehlaw.com</a>	Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____

